



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMre12071319

[REDACTED],  
Complainant,

v.

HOUSE OF KIDS DAYCARE,  
Respondent.

### NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following Notice of Finding with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On July 2, 2012, [REDACTED] ("Complainant") filed a Complaint with the Commission against House of Kids Daycare, ("Respondent") alleging discrimination on the basis of religion in violation of [REDACTED] the Indiana Civil Rights Law (Ind. Code § 22-9, *et. seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed and both parties have submitted evidence. Based on the final investigative report and a full review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was terminated due to her religion. In order to prevail, Complainant must show that: (1) she has a bona fide religious belief that conflicted with an employment requirement; (2) she informed Respondent about the belief; and (3) she was terminated for failing to comply with the conflicting employment requirement.

It is clear that Complainant holds a bona fide religious belief that conflicted with an employment requirement and that she informed Respondent of her belief. The record indicates that during Complainant's initial interview with Respondent in 1997, Complainant informed [REDACTED], Respondent's owner, that she was a practicing Hindu and as such, was prohibited from eating, preparing, cooking, or cleaning dishes that held meat. However, Complainant could serve meat dishes without issue. In December 1997, Respondent hired Complainant as a teacher's assistant and promoted her to lead teacher in several classrooms. The duties of lead teacher include creating and implementing lesson plans, documenting accidents, supervising children, serving food



to the children, training new staff, and working cooperatively with all employees. Complainant completed these tasks without incident for several years; yet in most instances, Complainant's co-workers would serve meat dishes for her. Issues began to arise in early 2012 when Respondent cut Complainant's hours and assigned her to work in the kitchen. While Respondent asserts it cut Complainant's hours because she refused to sign up for Credential in Early Childhood Development (hereafter "CDA") course, evidence has been provided to show that Complainant's application for the course was approved on or May 1, 2012; however, Complainant was terminated before she had an opportunity to complete the course.

In April 2012, Complainant states and another witness corroborates that Respondent forced her to prepare hamburger/ground beef in the kitchen although she did not know how to prepare meat. As a result, Complainant became ill, went to the doctor for treatment, and was out several days due to the incident. Upon her arrival, Complainant was returned to the kitchen. On another occasion, Respondent attempted to force Complainant to prepare pork and beans as well as chicken nuggets. Complainant told Bunton that it was against her religion to do so and would prepare a vegetarian alternative instead; the record indicates that Respondent's owner [REDACTED] became angry at this and walked away. On May 15, 2012, Respondent terminated Complainant for failure to wear a hairnet while substituting for another teacher during snack time.<sup>1</sup> While Respondent alleges she was serving food (which would require a hairnet), Complainant asserts that she was standing in for the teacher while she went to the restroom and was bleaching and cleaning the tables (which would not). Complainant admits to signing a written warning on April 27, 2012 that discussed Complainant's failure to wear a hairnet amongst other issues; however, evidence indicates this was the only written warning Complainant received about the use of hairnets and the letter went on to state that Complainant had done a wonderful job at Respondent's company. Further, witness testimony contends and Complainant asserts that Complainant did not agree with the allegations, did not fully understand the document, and signed it under duress because she feared for her employment. Complainant asserts that she always wore hairnets with the exception of one occasion (in which she was granted permission not to wear one). Additionally, Complainant has provided pictorial time-stamped evidence showing other employees not wearing hairnets while working in the kitchen and serving children during snack time.

Respondent has not provided any evidence to show that Complainant's request for a reasonable accommodation presented an undue hardship of any sort. Thus, it appears that Respondent's rationale for terminating Complainant was merely pretext for discrimination on the basis of religion and as such, probable cause exists to believe that an unlawful discriminatory practice has occurred.

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<sup>1</sup> It is disputed whether Complainant was improperly wearing the hairnet on the day in question or not wearing one at all.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged in the above-referenced case. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may elect to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election, or the Indiana Civil Rights Commission will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

July 17, 2013

Date

Akia A. Haynes

Akia A. Haynes, Esq.,

Deputy Director

Indiana Civil Rights Commission

SERVICE LIST